

E-Filed 12/29/11

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
AT SAN FRANCISCO

IN RE LARRY FORTADO, SR., as Plaintiff
in-Limitation /owner seeking limitation of
liability under 46 USC § 30501, *et. seq.*,

Owner/Petitioner,

IN ADMIRALTY AND AT LAW

NO. CV-11-3257-RS

[PROPOSED] ORDER GRANTING
MOTION TO CLERK FOR ENTRY OF
DEFAULT JUDGMENT AGAINST
RODOLFO RODRIGUEZ, AN
INDIVIDUAL

THE COURT, after reviewing Owner/Petitioner Larry Fortado, Sr.'s ("Fortado") Motion
to Enter Default Judgment Against Rodolfo Rodriguez, an Individual, and the records and
pleadings filed herein, this Court finds that,

1. The Order Directing Issuance of Notice and Publication Thereof, and Restraining
Order (dkt. 6) and Notice to Claimants of the Filing of Limitation Proceeding (dkt. 7) were
caused to be served on Rodolfo Rodriguez on August 25, 2011 via U.S. First Class Mail, postage
paid, and U.S. Certified Mail (dkt. 8);

1 2. On November 8, 2011, the Second Notice to Claimants of the Filing of Limitation
2 Proceeding (dkt. 21) was caused to be served on Rodolfo Rodriguez via U.S. Certified Mail (dkt.
3 22);

4 3. As indicated in the Proof of Publication (dkt. 28), the Second Notice was
5 published on November 1, November 8, November 15 and November 22, 2011;

6 4. The Notice to Claimants of the Filing of Limitation Proceeding (dkt. 21) provided
7 that “all persons asserting claims with respect to the losses, injuries, and/or damages are
8 admonished to file their claims with the undersigned clerk of this Court on or before the 28th day
9 of November, 2011 and to serve a copy thereof on Mary Forsgaard, C/O Young deNormandie,
10 P.C. at 1191 2nd Ave., Suite 1901, Seattle, Washington, 98101, counsel for Plaintiff-in-
11 Limitation on or before November 28, 2011.”;

12 5. The Motion for Clerk to Enter Default Against All Possible Claimants, Including
13 Rodolfo Rodriguez, an Individual (dkt. 29) and [Proposed] Order Granting Motion for Clerk to
14 Enter Default Against All Possible Claimants, Including Rodolfo Rodriguez, an Individual (dkt.
15 29-1) were caused to be served on Rodolfo Rodriguez on November 30, 2011 via U.S. First
16 Class Mail, postage paid, and U.S. Certified Mail (dkt. 30);

17 6. That Rodolfo Rodriguez received actual notice of the above captioned action;

18 7. That Rodolfo Rodriguez has not appeared, filed any claim against the Vessel or
19 Fortado, and has not filed an answer in this action;

20 8. That the Clerk of this Court entered an order of Default against Rodolfo
21 Rodriguez on December 2, 2011 (dkt. 31);

1 9. Rodolfo Rodriguez is not an infant, incompetent person, or a person in the
2 military service or otherwise exempted from default under the Soldiers' and Sailors' Civil Relief
3 Act of 1940; and

4 10. Owner/Petitioner Larry Fortado, Sr. is entitled to entry of Default Judgment.

5 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

6 A. THAT Rodolfo Rodriguez is in default and this Court enters judgment in favor
7 of Owner/Petitioner Larry Fortado, Sr.;

8 B. That Plaintiff-in-Limitation Larry Fortado, Sr., is not liable to any extent for any
9 damages and/or expenses in any way arising out of, or as a result of the grounding of the F/V
10 PHYLLIS J, ON 594641 which occurred on or about January 4, 2011;

11 C. That Plaintiff-in-Limitation Larry Fortado, Sr., is hereby discharged from any
12 and all further liability arising from the January 4, 2011, grounding of the F/V PHYLLIS J, ON
13 594641, including, but not limited, any and all claims of Rodolfo Rodriguez; and

14 D. That all persons, firms, corporations or other legal entities that failed to file a
15 claim in this proceeding within the time allowed by this Court be declared in default and forever
16 barred from making any claims for such damages and/or expenses in this proceeding or any
17 other proceeding.

18 Dated: December 29, 2011



19 Clerk of the Court
20 UNITED STATES DISTRICT COURT
21 Northern District of California

1 Motion and Order Presented by:

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3 YOUNG deNORMANDIE, P.C.

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5 By: /S/ Markos Scheer
6 Markos Scheer, WSBA #29233, *pro hac vice*
mscheer@ydnlaw.com

7 Attorneys for Owner/Plaintiff-in-Limitation

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